



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Red Road Inc.

File: B-283713.2

Date: March 14, 2000

Don Loper for the protester.

Daniel N. Hylton, Esq., Department of Agriculture, for the agency.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's evaluation of the protester's proposal, which received the lowest technical rating of any of the proposals submitted, was reasonable where the record supports the agency's determination that the protester's proposal failed in many instances to include information specifically requested by the solicitation and necessary for evaluation purposes.

DECISION

Red Road Inc. protests the award of a contract to Quigley Bros. under request for proposals (RFP) No. R1-17-99-30, issued by the Forest Service, Department of Agriculture, for certain watershed improvements in the Nez Perce National Forest, Idaho. Red Road contends that the agency's evaluation of its proposal was unreasonable.

We deny the protest.

The RFP provided for the award of a fixed-price contract to the offeror submitting the proposal determined to be most advantageous to the government under the following evaluation criteria: past performance; production schedule; experience and qualifications of the firm, supervisor, and employees; equipment available; and price. RFP at 65, 70. The solicitation advised offerors that the agency intended to evaluate proposals and award the contract without conducting discussions, and thus offerors should include their best terms from a price and technical standpoint in their initial proposals. RFP at 70.

The agency received six proposals, including Quigley's and Red Road's, by the RFP closing date. The agency evaluated the proposals received, selected the proposal submitted by Quigley as representing the best value to the government, and awarded the contract to that firm. Contracting Officer's Statement at 3.

The agency, in response to a protest filed with our Office by Red Road, convened a new technical proposal evaluation panel (TPEP), and again evaluated the proposals.¹ Id.; Agency Report, Tab 6, Letter from the Contracting Officer to Selected Members of the Second TPEP (Oct. 22, 1999). Quigley's proposal received the second highest technical rating of the proposals received with the second lowest price of \$99,370. Contracting Officer's Statement at 3; Agency Report, Tab 6, Evaluation Documents, at 4. Red Road's proposal, at \$98,574, was the lowest-priced proposal received, but also received the lowest technical rating of any of the proposals. The agency again determined that Quigley's proposal represented the best value to the government, and notified the disappointed offerors that the agency's previous award to Quigley would not be rescinded. Agency Report, Tab 6, Evaluation Documents, at 4, and Tab 2B, Letter from Contracting Officer to Red Lion (Nov. 29, 1999).

Red Road protests the agency's evaluation of its proposal, and argues that, but for the agency's unreasonable evaluation, its proposal would have been selected for award. The protester contends that contrary to the agency's view, "[t]here should be no doubt that [Red Road] provided enough information to meet and exceed the [RFP's] 'Technical Proposal Instructions.'"² Protester's Comments at 3.

The evaluation of technical proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. An offeror's mere disagreement with the agency does not render the evaluation unreasonable. Matrix Int'l Logistics, Inc., B-277208, B-277208.2, Sept. 15, 1997, 97-2 CPD ¶ 94 at 4. As illustrated by the following examples, we find that the agency's evaluation is reasonable, given the evaluators' reasonable conclusions that

¹ We dismissed Red Road's protest of the evaluation of its proposal and award of the contract to Quigley upon being informed by the agency that it would reevaluate proposals. Red Road, Inc., B-283713, Oct. 26, 1999.

² To the extent that Red Road is challenging the solicitation's requirements regarding the information to be included in technical proposals, that protest is untimely. Under our Bid Protest Regulations, a protest against alleged solicitation improprieties must be filed no later than the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1999); KCI, Inc., B-244690, Oct. 29, 1991, 91-2 CPD ¶ 395 at 3.

Red Road's proposal (in contrast to that of the awardee) lacked, in many instances, any sort of the requested detail.

The RFP specified, among other things, that each offeror's technical proposal "must present sufficient information to reflect a thorough understanding of the requirements and a detailed description of the techniques, procedures and program for achieving the objectives of the specifications/statement of work." RFP at 68. The RFP's proposal preparation instructions referred here to the evaluation criteria, and stated, for example, that offerors should address the production schedule evaluation criterion by addressing in their proposals "who, what, where, when and how you plan to do the work, from beginning to end, including time frames." RFP at 68, 70.

Red Road's technical proposal was a half page long with three resumes. Agency Report, Tab 4, Red Road's Proposal. The portion of this half page which appears to respond to the production schedule evaluation criterion states only that Red Road "will finish the project within 90 days of the award" and will "purchase, collect and distribute materials in appropriate locations and perform the work in sequences that allow for the completion of road sections in a manner that minimizes the need for reentry into completed sections."³ *Id.* Given that Red Road's proposal failed to address in any meaningful way "who, what, where, when and how [it] plan[ned] to do the work, from beginning to end, including time frames" as requested by the RFP, we cannot find unreasonable the agency's criticism that this aspect of Red Road's proposal set forth "minimal specifics on procedure" and was considered "below average." Contracting Officer's Statement at 6-7.

As another example, the RFP's proposal preparation instructions stated that offerors should address the equipment available for use on this project criterion by listing the equipment "owned or rented, type and size, as applicable to the work." RFP at 70. In response to this evaluation criterion, Red Road's technical proposals simply says that it would accomplish the work "with the use of 1-2 excavators." Agency Report, Tab 4, Red Road's Proposal. Again, given that the protester's proposal fails to provide any detail regarding the type and size of the equipment owned, how it will be used, or whether the equipment it intends to use is owned by Red Road or will be rented, the agency reasonably found that this aspect of the protester's proposal was "indefinite" and thus "below average." Agency Report, Tab 6, Evaluation Documents, at 6-9.

The protester refers to two handbooks it has written which concern the type of work to be performed under the RFP, and argues that, because the agency was aware of these handbooks, there should have been no question as to Red Road's technical

³ Red Road's proposed 90-day completion period was consistent with the RFP's requirement that the successful contractor commence work within 10 days after it receives a notice to proceed and complete the work in 90 days. RFP at 12.

capabilities. The protester adds here that any further questions regarding its technical capabilities could have been resolved through “a simple phone call” to one of the references cited by the protester in its proposal. Protester’s Comments at 3.

As noted previously, the RFP required that offerors submit technical proposals and supplied instructions as to what the proposals were to address in relation to each of the RFP’s evaluation criteria. Because the agency’s evaluation was dependent upon the information furnished in a proposal, it was Red Road’s obligation to submit an adequately written proposal for the agency to evaluate. GEC-Marconi Elec. Sys. Corp., B-276186, B-276186.2, May 21, 1997, 97-2 CPD ¶ 23 at 7. Red Road simply failed to submit an adequate proposal, and notwithstanding the protester’s suggestion to the contrary, the agency was not obligated in conducting its evaluation to obtain and refer to Red Road’s handbooks or its references for information regarding the protester’s technical capabilities.⁴ Id.; KCI, Inc., supra.

The protester complains at length that the agency’s unfavorable evaluation of its proposal was due to agency bias against Red Road. As explained above, the record supports the reasonableness of the agency’s evaluation of Red Road’s proposal; accordingly, there is no basis on which to conclude that the agency’s unfavorable evaluation of Red Road’s proposal was the result of bias or bad faith. Gordon R.A. Fishman, B-257634.3, Nov. 9, 1995, 95-2 CPD ¶ 217 at 3-4.

The protest is denied.

Comptroller General
of the United States

⁴ The agency also found Red Road’s proposal deficient because, although Red Road completed the price schedule set forth in the RFP, it failed to comply with the solicitation’s requirement that it submit a business proposal that includes a “price breakdown of estimated direct costs (materials & labor) and indirect costs (overhead & profit), as used in computing bid price and project work schedule.” RFP at 68. In addition, the agency found Red Road’s past performance and qualifications “below average.” We need not consider the reasonableness of Red Road’s past performance and qualifications ratings, in view of the deficiencies in Red Road’s proposal, discussed above, that warranted its low rating and in and of themselves would cause Red Road not to be in line for award, given Quigley’s technically superior proposal at a slightly higher price.